RECENT DECISIONS.

COMMON CARRIERS—LIABILITY FOR NEGLIGENCE OF MANUFACTURER.—The plaintiff was injured through the fall of an elevator in an office building as the result of a defective drawbolt by which the elevator cage was suspended. *Held,* the owner of the building is liable for the negligence of the manufacturer in not properly testing the tensile strength of the bolt. *Dibbert* v. *Metropolitan Inv. Co.* (Wis.), 147 N. W. 3. See NOTES, p. 60.

COMMON CARRIERS—SHIPPING CONTRACT—WAIVER.—A provision in a shipping contract exempted the carrier from liability for loss or damage, unless a written claim for such loss or damage was made within four months after the expiration of a reasonable time for delivery. After the expiration of the four-month period the carrier, at the consignor's suggestion, undertook to trace the lost goods. *Held,* the provision requiring notice is waived. *Cheney* v. *N. Y. C. & H. R. R. Co.,* 85 Misc. Rep. 157, 148 N. Y. Supp. 108. See NOTES, p. 68.

COMPROMISE—SCOPE AND EFFECT.—The plaintiff shipped a casket to be used for the burial of his wife. The carrier negligently failed to deliver it until after the funeral, necessitating the purchase of a cheaper casket. The carrier afterwards paid the value of the casket, taking a receipt "in full payment for one coffin." *Held,* the plaintiff can recover for mental anguish occasioned by the negligent delay, such not being included in the compromise. *Byers* v. *South. Exp. Co.* (N. C.), 81 S. E. 741.

Damages are allowed for mental anguish occasioned by negligent delay in the transportation of a corpse. *Hale* v. *Bonner,* 82 Tex. 33, 17 S. W. 605, 14 L. R. A. 336, 27 Am. St. Rep. 850. Damages for mental anguish is not a separate cause of action, but a further element of damages. *Thompson* v. *Exp. Co.,* 144 N. C. 392, 57 S. E. 19. There is conflict of authority on the question whether settlement of the actual pecuniary loss suffered bars a recovery for damages for mental anguish arising from the same cause of action. This is due to a failure to distinguish between settlement by compromise and settlement by a judgment or decree of a court. A compromise settles only such matters as are within the intention of the parties. *Stubbs* v. *Franklyn & M. Ry. Co.,* 101 Me. 355, 64 Atl. 625. Where some matter arising from the same cause of action was not within the intention of the parties, the settlement is no bar to an action thereon. *Watson C., etc., Co.* v. *James,* 72 Ia. 184, 33 N. W. 622. But where the settlement is by judgment or decree of court the principle of res judicata applies; all damages resulting from a single wrong or cause of action must be recovered in a single action and the plaintiff cannot maintain separate actions for separate items of damage. *King* v. *Chicago, M. & St. P. Ry. Co.,* 80 Minn.

83, 82 N. W. 1113, 50 L. R. A. 161, 81 Am. St. Rep. 238; *Kimball* v. *Louisville & N. Ry. Co.*, 94 Miss. 396, 48 So. 230; *Eller* v. *Railway*, 140 N. C. 140, 52 S. E. 305, 3 L. R. A. (N. S.) 225.

CONSTITUTIONAL LAW—POLICE POWER—TRADING STAMPS.—A legislative act imposed a prohibitive license fee for the privilege of using stamps. *Held*, such a law is a valid exercise of the police power. *State* v. *Pitney* (Wash.), 140 Pac. 918.

The exact scope of the police power is indefinable. It is stated generally to extend to the protection of the health, morals and safety of society. It is difficult to see any objection to the use of trading stamps. There is nothing in it that partakes of the nature of chance, and by the great weight of authority it is a legitimate mode of commercial advertisement. *Ex parte McKenna*, 126 Cal. 429, 58 Pac. 916; *Sperry & Hutchinson* v. *City of Owensboro*, 151 Ky. 389, 151 S. W. 932; *Commonwealth* v. *Sisson*, 178 Mass. 578, 60 N. E. 385; *Ex parte Drexel, Ex parte Holland*, 147 Cal. 763, 82 Pac. 429, 2 L. R. A. (N. S.) 588. The individual is permitted to engage in any lawful pursuit in a legitimate and lawful manner. The prohibition of such a business is a taking of property without due process of law. *State* v. *Dodge*, 76 Vt. 197, 56 Atl. 983. A prohibitive tax on such a business is discriminatory and a taking of property without due process of law.

CONTRACTS—CONTINUING CONTRACTS—RIGHT TO TERMINATE.—An employee of the defendant, injured in the course of his employment, was sent to a hospital by a physician authorized by the defendant "to take care of the injured man." After five days the defendant informed the hospital authorities that he would not be responsible for the employee's account "from now on." The employee remained in the hospital for some time afterward. *Held*, the attempted termination of liability is a ratification by the employer of the physician's act, and such liability once fixed may not be terminated. *Omaha Gen. Hospital* v. *Strehlow* (Neb.), 147 N. W. 846.

An express promise to pay for emergency treatment to an injured employee accompanied by a disclaimer of liability as to the remainder, when the employee was taken to the hospital by an unauthorized agent, does not constitute a ratification, but is void under the statute of frauds as an oral promise to answer for the debt of another. *Holmes* v. *McAllister*, 123 Mich. 493, 82 N. W. 220, 48 L. R. A. 396. Where an injured employee is taken to a hospital by an unauthorized agent the employer may escape liability by a refusal to be bound. *Salter* v. *Nebraska Tel. Co.*, 79 Neb. 373, 112 N. W. 600, 13 L. R. A. (N. S.) 545. But where the employer himself engages treatment at a hospital for an employee, he cannot terminate such liability by a subsequent refusal to be bound. *St. Barnabas Hospital* v. *Minn. Int. Electric Co.*, 68 Minn. 254, 70 N. W. 1126, 40 L. R. A. 388.

CONTRACTS—REWARD—KNOWLEDGE OF OFFER.—Defendant offered a reward for the apprehension of a criminal. After detaining but before